

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

4:12-CR-3031

vs.

DONALD G. ANTHONY,

ORDER

Defendant.

This matter is before the Court on the defendant's Motion to Suppress (filing 20) and the United States Magistrate Judge's Memorandum and Order (filing 45), incorporating the findings made in court at the hearing on the defendant's motion, *see* filing 50 at 162-69, and stating her recommendation that the motion to suppress be denied. The parties were given 10 days from the date the transcript of the hearing on the motion to suppress was available to counsel to file objections to the Magistrate Judge's recommendation. *See* filing 45; *see also* NECrimR 59.2(a). The transcript (filing 50) was filed with the Clerk of the Court on December 14, 2012, and no objection to the Magistrate Judge's recommendation has been filed.

28 U.S.C. § 636(b)(1) provides for de novo review only when a party objected to the Magistrate Judge's findings or recommendations. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. NECrimR 59.2(e). The Magistrate Judge's findings and recommendation advised the parties that failure to object to the findings and recommendation may be held to be a waiver of the right to appeal the Court's adoption of the recommendation. *See* filing 45. And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); *see also* *United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006). Accordingly, the Court deems any objection to the Magistrate Judge's findings and recommendation waived, and will adopt the findings and recommendation.

IT IS ORDERED:

1. The findings and recommendation of the United States Magistrate Judge's Memorandum and Order (filing [45](#)) are adopted.
2. The defendant's Motion to Suppress (filing [20](#)) is denied.

Dated this 27th day of December, 2012.

BY THE COURT:



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John M. Gerrard  
United States District Judge